

DRAFT 09/10/97

Potential Cover Memo or Press Release on Accord "Extension"

[State and Federal Letterhead Logos]

MEMORANDUM

SUBJECT: State and Federal Agency Extension of Bay Delta Accord Provisions

TO: Interested Parties

FROM: _____, State of California
_____, United States of America

Since its execution by State and Federal agencies and stakeholder representatives in December 1994, the Bay Delta Accord has served as the foundation for significant progress in addressing California's water issues. Many of the activities envisioned in the Accord have seen substantial progress, including the identification of over \$22 million in contributions to the Category III program, the State Board's approval of a new water quality control plan, and the maintenance of substantial stability under the Endangered Species Act.

In addition, further progress in implementing the Accord is anticipated over the next year. The State of California's voters provided \$60 million toward the Accord's Category III program when they approved Proposition 204 in November 1996, and the current Federal budget request includes a similar amount of Federal funds that could be used for the Federal contribution to Category III. In addition, the State Water Resources Control Board, in its notice for the March 18, 1997 workshop, reaffirmed its commitment to issue a final water rights order implementing the 1995 WQCP before the interim order expires in December 1998.

The Accord was intended to be an interim agreement lasting for three years. In view of the substantial progress in implementing the Accord, and in light of the need for all stakeholders to continue focusing on the CALFED Bay Delta Program as it moves towards a long-term solution to the State's water issues, the State and Federal signatories to the Accord agree to maintain the substantive commitments of the Accord through December 1998. By that time, the CALFED Bay Delta Program will have identified a long term program, and the State Board will have issued a final water rights order implementing the 1995 WQCP.

The State and Federal agencies have agreed to maintain our commitment to the Accord unchanged during this additional year, so that all parties can work on the long term CALFED Bay Delta Program without compromising the stability provided by the Accord. Many of the actions undertaken consistent with the Accord are expected to

DRAFT 09/10/97

continue in effect independent of the Accord. For example, the Endangered Species Act biological opinions under the Endangered Species Act and the Water Quality Control Plan will continue to be in effect.

One important set of provisions in the Accord that do expire in December 1997 are (1) the Federal government's commitment that any additional water costs resulting from compliance with the biological opinions under the ESA are intended to be met consistent with the "no net loss" provisions in the Accord, and (2) that any additional water costs resulting from the listing of species under the Federal ESA will be provided by willing-seller purchases by the Federal government.

The Federal government will continue to take the approach that any additional water impacts caused by implementation of the biological opinions under the ESA before December 1998 should be dealt with pursuant to the procedures established in the "no net loss" provisions in the Accord.

In addition, the California and Federal fish and wildlife agencies are currently involved in three potential listings that could move forward before December 1998: a proposed listing of the Sacramento splittail by the USFWS under the Federal ESA, a proposed listing of certain runs of steelhead by the NMFS under the Federal ESA, and the candidacy for endangered status of the spring run chinook salmon under the California ESA. The California and Federal fish and wildlife agencies do not believe that any of these listing actions, should they develop into final listing decisions, will impose any additional water costs on the Bay Delta system before December 1998 that cannot be addressed either through the "no net loss" provisions of the Accord or by willing-seller water purchases by the respective listing government.

The other primary provision of the Accord that expires at the end of December 1997 are the commitments by the State and Federal water projects to implement the water quality standards outlined in the Accord. Many of the specific Accord standards have been incorporated into the biological opinions under the Federal ESA or in the interim water rights order issued by the State Board, and as such will continue in effect. Nevertheless, to avoid any possible confusion over the applicable standards, the State and Federal projects agree that today's action of extending the Accord also extends the State and Federal water projects' commitment to meet the Accord standards until the end of 1998.